

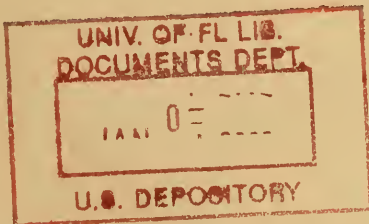
NATIONAL RECOVERY ADMINISTRATION

PROPOSED CODE OF FAIR COMPETITION

FOR THE

FRUIT AND VEGETABLE PACKAGE
MANUFACTURING INDUSTRY

AS SUBMITTED ON AUGUST 31, 1933



The Code for the Fruit and Vegetable Package Manufacturing Industry in its present form merely reflects the proposal of the above-mentioned industry, and *none of the provisions contained therein are to be regarded as having received the approval of the National Recovery Administration as applying to this industry*

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1933

SUBMITTED BY
FRUIT AND VEGETABLE PACKAGE ASSOCIATION

(11)



RESOLVED that the suggested Code of Fair Competition for the Fruit and Vegetable Package Association as drafted by the manufacturers signatory to this resolution, a copy of which is attached hereto, be presented to the Emergency National Committee of the American Veneer Package Association at their meeting in Washington, D.C., July 24, 1933, for approval and adoption; and it is further

RESOLVED that G. E. Sturtevant, ———, and ——— are authorized and instructed to make such presentation at Washington, and that their decisions as to amendments, changes, and approval of a code for the industry as a whole shall be conclusive on the manufacturers signatory hereto; and it is further

RESOLVED that Mr. J. F. Proctor, author of the suggested code, accompany the Committee as a counselor and in an advisory capacity, and that he may act as spokesman for the Committee and the manufacturers signatory hereto, but shall not have a vote.

Wm. E. Asplin; The Ottawa Basket Co. (O. H. Paline); Growers Basket Co. (Geo. W. Cunningham); F. W. Harrison & Son (by F. M. H.); The Creston Basket & Veneer Co. (H. G. Knepp); The Berlin Fruit Box Co. (L. Wm. Bensohoten); The Rocky River Basket Co. (D. W. Wurbau); The Henry Prasse Co. (W. F. Eckert); H. C. Lobis; Andover Basket Co. (A. L. Crum); Carl L. Wright (Saybrock, Ohio); The Jefferson Wood (No Co.); D. Marnhoret Basket Co. (A. Gordan).

PROPOSED CODE OF FAIR COMPETITION FOR THE FRUIT AND VEGETABLE PACKAGE INDUSTRY

SUGGESTED TO THE INDUSTRY BY A GROUP OF FRUIT AND VEGETABLE PACKAGE MANUFACTURERS REPRESENTATIVE OF THE PRODUCTION OF FRUIT AND VEGETABLE PACKAGES IN THE STATE OF OHIO

PREAMBLE

The function of this industry is to produce the containers required to market crops of fresh and perishable fruits and vegetables in the several sections of the United States.

Its operation are so entirely dependent upon weather conditions and frost, drought, blight, and other uncontrollable factors affecting the maturing and success or failure of the various crops, which determines the quantity of production and hours of labor, that fixing of either uniform hours of labor, rates of compensation, and production is difficult. This code, however, is the earnest effort of the industry to cooperate with the President in effectuating the declared purposes of the National Recovery Act.

ARTICLE I—PURPOSE

This code is adopted for the purpose of reducing and relieving unemployment, to improve standards of living, and to increase the purchasing power of labor, to remove obstructions to the free flow of interstate commerce; to promote the organization of industry for the purpose of cooperative action among trade groups as well as labor and management under adequate governmental sanction, to eliminate unfair competitive practices, and otherwise rehabilitate industry. This code is not designed to, nor shall it be operated so as to promote monopoly, or to eliminate, suppress, or discriminate against small enterprises.

ARTICLE II—DEFINITIONS

(A) "Fruit and Vegetable Package Industry" as used herein is defined to include the manufacture and/or assembly of (1) Berry Boxes, (2) Tills, (3) Hampers, (4) Round Stave Baskets (bushel baskets), (5) Climax Baskets, (6) Splint Baskets (market baskets and/or Diamond Weave and/or Square Braid and/or Slat Baskets), (7) Citrus Boxes, (8) Crates (fruit or vegetable), (9) Fruit Boxes, (10) Basket and Crate Material, (11) Straight-Sided Baskets, with wood or paper as the base material.

(B) "Divisions" as used herein refers to the several parts of the fruit and vegetable package industry, which are (or may be) established and are (or may be) defined in the "division supplemental codes" as provided in Article VII hereof.

(C) "Members and/or members of the industry" as used herein is defined to mean (1) member of the Fruit and Vegetable Package Association. (2) Members of the industry not members of the Association who contribute to the support of the formulation and administration of this code.

(D) "Employer" as used herein is defined to mean every person promoting, or actively engaged in the manufacture and/or assembly of the products of the fruit and vegetable package industry as herein defined.

ARTICLE III—FINANCIAL SUPPORT

The members of the Association shall give their financial support by the payment of dues. Those who are members of the industry but not of the Association shall, for the services rendered to them in accordance with this code, pay such service charges as may be determined by the Emergency National Committee, which shall be equitable and reasonable, including only charges based upon the formulation and administration of this code.

ARTICLE IV—PARTICIPATION

Participation in this code, and any subsequent revision of or additions to the code, through membership in the Association or any of its affiliated subdivisions or any affiliated subdivision which subsequently may be formed, shall be open to any person, partnership, or corporation in the fruit and vegetable package industry who accepts his or its share of the cost and responsibility, as well as the benefit, of such participation.

ARTICLE V—DIVISIONS OF INDUSTRY

(A) For the purpose of the administration of this code, the fruit and vegetable package industry shall be divided into divisions by type of product as set forth below. Each division shall designate or establish its own administrative agency or agencies.

(B) Each division shall be independent and self-governing in respect to all conditions and problems relating exclusively to said division.

(C) Proposals in respect to matters affecting more than one division may be initiated by any division, and shall be submitted for consideration to the Emergency National Committee of the Fruit and Vegetable Package Industry, hereinafter described, and its determination shall be binding upon said division and all other divisions affected thereby.

(D) Divisions:

1. Manufacturers of Berry Boxes and Tills.
2. " " " Hampers and Bushel Baskets.
3. " " " Climax Baskets.
4. " " " Diamond Weave and/or Square Braid,
Slab and Straight Sided Baskets.
5. Manufacturers of Citrus Boxes, Crates, and Fruit Boxes.

(E) Disagreements arising between members of the same or different subdivisions shall be settled by arbitration.

(F) Each of the above divisions, and any others which may subsequently be formed within the fruit and vegetable package industry, shall set up an Executive Committee for the purpose of administering the provisions, to consider proposals for amendments thereof and exceptions thereto, and otherwise to carry out within the division the purposes of the National Industrial Recovery Act.

ARTICLE VI—RULES AND REGULATIONS

(A) To effectuate the general purpose of this code, the Emergency National Committee is hereby authorized and directed to make such additional rules and regulations as may be necessary, and are empowered to enforce the provisions of this code and any amendments thereto which are prescribed by the National Industrial Recovery Act.

(B) If a subdivision does not concur in this code or fails to perform its obligations hereunder, the Emergency National Committee, in conjunction with the Coordinator of the fruit and vegetable package industry, hereinafter described, is hereby empowered to adopt a code for the division and may provide for the administration of that code.

ARTICLE VII—DIVISION REGULATIONS

Each of the divisions and others which may subsequently be formed shall promptly undertake the formulation of a code of fair competition providing regulations and trade practice rules covering conditions peculiar to its division. Such codes shall conform to this code of the industry, and shall be subject to the approval of the Emergency National Committee.

ARTICLE VIII—EMERGENCY NATIONAL COMMITTEE

(A) There shall be an Emergency National Committee of the fruit and vegetable package industry to consist of a representative or representatives of each division, an equal number to be selected by each of said divisions.

(B) The Emergency National Committee shall be the general planning and coordinating agency for the industry. Its members selected by established divisions shall be empowered by said divisions to act for them conclusively in respect to all matters before the committee. An agenda of all matters to be settled at any meeting of the Emergency National Committee shall be mailed to each member of said committee thirty (30) days prior to any meeting of the Emergency National Committee.

(C) The Emergency National Committee may require from time to time, and shall be furnished, such reports as in its judgment may be necessary to adequately advise it of the administration and enforcement of this code, and upon complaint of interested parties, or upon its own initiative, shall make or cause to be made by the Coordinator such inquiry and investigation into the operation of the code as may be necessary and may designate such agents as it shall determine.

(D) In the interests of expeditious administration and enforcement of this code, the Emergency National Committee shall set up

an Executive Committee composed of five members of said Emergency National Committee. The Executive Committee shall act for the industry in conferring with the President or his agents on all matters pertaining to the code and in otherwise administering its provisions, including cooperating with similar committees of other industries to the end of offering a balanced national economy.

ARTICLE IX—COORDINATOR

There shall be a Coordinator of the Fruit and Vegetable Package Association elected by a majority vote of the members present at any regular or special meeting. The Association shall at the time of such election enter into a contract with such Coordinator for a period of two years, which contract shall provide for the compensation to be paid to the Coordinator and shall provide for the duties to be performed by, and the powers of the Coordinator.

The Coordinator shall be the chief administrative officer of the Association and it shall be his general duty to promote cooperation among the members and to promote the activities of the Association to the end that the public interest, the interest of labor, and the interest of the fruit and vegetable package industry be served to the greatest possible extent.

The Coordinator shall perform the clerical duties of the Association; shall obtain and disseminate all data and statistics provided for herein, and may make recommendations relative thereto; shall receive complaints against any members of the fruit and vegetable package industry and obtain and receive evidence relative to such complaints and shall treat such complaints as provided for herein and shall advise the members on the proper procedure to be followed as outlined by the regulations, trade practice rules, and the Federal laws and regulations relating to the industry.

The Coordinator shall in all of his actions be entirely impartial to the members and shall so conduct the administrative work so that the best interests of the industry be served as a whole.

The Coordinator shall encourage new memberships in the Association and shall use his influence in obtaining, so far as is possible, membership in the Association of all fruit and vegetable package manufacturers.

ARTICLE X—INDUSTRY REGULATIONS

(Applying to all divisions as distinct from Division Regulations which may differ from Division to Division.)

SECTION 1. *Labor Provisions.*—(A) Each employer acknowledges the right of employees to organize and bargain collectively through representatives of their own choosing and agrees that employees shall be free from the interferences, restraint, or coercion of employers of labor, or their agents, in designation of such representatives, or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.

(B) Each employer agrees that no employee or no one seeking employment shall be required as a condition of employment, to join any union or refrain from joining, organizing, or assisting a labor organization of his own choosing.

(C) Each employer agrees to comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment, approved or prescribed by the President pursuant to the provisions of the National Recovery Act.

(D) On and after the effective date of this code the minimum wage that shall be paid by any employer to any of its employees and/or labor, except learners, during a thirty (30) day apprenticeship, and outside employees shall be as shown in schedule A attached hereto and made specifically a part hereof.

(E) On and after the effective date of this code no employer shall operate on a schedule of hours of labor for their employees—except repair-shop crews, engineers, firemen, office, supervisory staff, shipping, watching, and outside crews in excess of the maximum hours as shown on schedule B attached hereto and specifically a part hereof.

(F) On and after the effective date of this code no employer shall pay any employee a lesser wage than that established in schedule A of this article regardless of whether the employee's compensation is otherwise based on a time rate or upon a piecework performance.

SCHEDULE A

MINIMUM WAGES OF LABOR UNDER ARTICLE X, CODE OF FAIR COMPETITION FOR THE FRUIT AND VEGETABLE PACKAGE INDUSTRY

Persons under sixteen (16) years of age shall not be employed in any factory or assembly plant.

Minimum rates of pay for workers on piecework or on contract basis shall be equal in fact to the minimum hourly and weekly rates of this schedule.

Unskilled Labor—Southern Sections.—Thirty cents (\$.30) per hour, or twelve dollars (\$12.00) per week for a forty (40) hour week or fourteen dollars and forty cents (\$14.40) for a forty-eight (48) hour week.

Unskilled Labor—Northern Sections.—32.5 cents per hour, or thirteen dollars (\$13.00) per week for a forty (40) hour week or fifteen dollars and sixty cents (\$15.60) for a forty-eight (48) hour week.

Engineers—Mechanics, Lathe Operators, and Supervisory Staff—Southern Sections.—37.5 cents per hour, or fifteen dollars (\$15.00) per week for a forty (40) hour week or eighteen dollars (\$18.00) per week for a forty-eight (48) hour week.

Engineers—Mechanics, Lathe Operators, and Supervisory Staff—Northern Sections.—40 cents per hour, or sixteen dollars (\$16.00) per week for a forty (40) hour week or nineteen dollars and twenty cents (\$19.20) for a forty-eight (48) hour week.

Firemen—Southern Sections.—32.5 cents per hour, or thirteen dollars (\$13.00) per week for a forty (40) hour week or fifteen dollars and sixty cents (\$15.60) for a forty-eight (48) hour week.

Firemen—Northern Sections.—34.5 cents per hour, or thirteen dollars and eighty cents (\$13.80) per week for a forty (40) hour week or sixteen dollars and fifty-six cents (\$16.56) for a forty-eight (48) hour week.

Clerical or Office Workers—Southern Sections.—Fourteen dollars (\$14.00) per week for a forty-eight (48) hour week.

Clerical or Office Workers—Northern Sections.—Fifteen dollars (\$15.00) per week for a forty-eight (48) hour week.

SCHEDULE B

MAXIMUM HOURS OF EMPLOYMENT OF LABOR, UNDER ARTICLE X, CODE OF FAIR COMPETITION FOR THE FRUIT AND VEGETABLE PACKAGE INDUSTRY, SUBJECT TO THE FOLLOWING EXCEPTIONS

1. *Executives, Supervisory Staffs, Shipping Crews, Office Workers, Engineers, Firemen, and Repair Crews.*—(A) Insofar as is practical, the maximum hours of labor per person shall be forty (40) hours per week. However, if in order to provide for the pressing requirements of the fruit, vegetable, or other agricultural or perishable foods or industrial needs of basket and crate users, additional hours of labor are necessary, then the number of hours may be increased during the period of the emergency, provided that in no event shall the total hours of labor in any fifty-two (52) weeks' period exceed an average of forty-four (44) hours weekly.

SEC. 2. *Cost Provisions.*—(A) Each member of the industry agrees to use in his business a uniform cost-finding method. This method shall be the method as adopted by the Emergency National Committee after being approved by a committee of members of the aforesaid committee appointed for the purpose of conferring with certified public accountants, who shall be employed directly by the Association.

(B) Each member of the industry shall put into use in his business the uniform cost-finding method as adopted within ninety (90) days after the approval of the code by the Government.

(C) Each member of the industry shall maintain in practice the aforesaid uniform cost-finding method for a period of two years after the date of its establishment, and thereafter, unless at the end of the two years the method is changed by a majority vote of the members of the Association.

(D) A fair average cost, to be determined in accordance with Section 3 of the industry regulations for the members of the industry, shall be set up in accordance with the aforesaid uniform cost-finding method by the certified public accountants establishing the aforesaid cost-finding method; and after its approval by the Emergency National Committee, said fair average cost, and no other, shall be used by each member in arriving at his selling price.

SEC. 3. *Agreement Not to Sell Below Cost, and Definition of Cost.*—(A) No member of the industry shall sell any of his manufactured products and/or any accessory and/or part applied thereto at a price below cost as determined by the adopted uniform cost-finding method. Nor shall any member dispose of gratis to any distributive agency, parts, or accessories used in the construction of any of his products.

(B) The elements entering into cost shall include material, labor, factory overhead, interest on plant investment, selling, and administrative expenses.

(C) The determination of a fair average cost for each product manufactured shall be made in accordance with paragraph D of this Section.

(D) Each member of the industry shall submit to the accountants appointed a list of his products, showing opposite each item thereon a figure representing cost of material, labor, and factory overhead accumulated through the medium of his own cost method. That figure shall include interest on plant investment applied on the same basis as factory overhead: from this information average costs for each item of product of similar kinds and sizes made by the various members will be established.

(E) To the average cost so established a percentage shall be added, providing for selling and administrative expenses, which shall not include trade discounts. This percentage shall be determined by the Emergency National Committee in conjunction with the appointed accountants and shall be based on a fair cost to the industry of administrative and selling expenses. The

final cost of each item of product thus established shall be the minimum price for which this item shall be sold.

(F) The final costs of each item of product to be used as the minimum sales price shall be adjusted monthly until stabilization of items of cost occurs.

(G) Any member of the industry that is not equipped with an acceptable method for determining cost, or is in the process of installing such a method, shall be governed by the average cost in the balance of the industry until such time as his cost method is acceptable for the determination of such average.

SEC. 4. *Method of Pricing, Discounts, and Terms.*—Attached hereto, made a part hereof, and marked "schedule C" is the prescribed form and method of arriving at the ultimate price to the consumer of all the products together with a scale of discounts and terms. Each member of the industry agrees to use the said form and method, scale of discounts and terms and no other, in arriving at his list prices, discounts, and terms.

SEC. 5. *Classification of Distributive Agencies.*—(A) Attached hereto, made a part hereof, and marked "schedule D", is a set of definitions providing for the classification of the various type of distributive agencies through which the industry markets its products. Each member of the industry agrees to use the said definitions and no others in the determination of the discounts and terms that any distributive agency shall be granted, said discounts and terms to be in accordance with the scale of uniform discounts and terms as provided in Section 4 hereof.

(B) In the event that a question arises regarding the qualification of a distributive agent for any classification, each member of the industry agrees to be governed by the decision of the Emergency National Committee and in accordance with the rules and regulations governing the arbitration of trade differences.

(C) Each member of the industry before negotiating for the business of any distributive agency not classified shall request a classification from the Association, which classification shall be in accord with the definitions as heretofore outlined.

(D) Upon application to the Association for classification of a distributive agency the applicant shall furnish such data as is prescribed by the Coordinator with the concurrence of the Emergency National Committee. The Coordinator upon receipt of an application for classification or reclassification of a distributive agency shall make such investigations as are necessary and with the accumulated data place the application before the Emergency National Committee for decision. The Coordinator of the Association shall immediately notify the members of the classification or reclassification of distributive agencies.

(E) No member other than the applying member or members shall sell, contract with, or negotiate with a prospective agency until thirty (30) days after notification of the said agency classification by the Association.

SCHEDULE C

UNDER SECTION 4, ARTICLE X, CODE OF FAIR COMPETITION FOR THE FRUIT AND VEGETABLE PACKAGE INDUSTRY

(A) To determine his ultimate price to the consumer (the definition of consumer applying as herein provided), each member of the industry shall add to cost, as developed by the cost-finding method mentioned in Section 3, Article X herein, a sufficient amount which when the greatest trade discount (as shown in the uniform scale of discounts herein set forth) is applied against the resulting total the net selling price shall not be less than the minimum sales price developed by the aforesaid cost-finding method.

(B) The list price as established in paragraph A of this exhibit shall be the price that shall be quoted to the consumer. Quotations to consumers and any other of the various classifications of trade shall be based on the list price and shall be in accord with the scale of discounts and terms as herein provided and no other.

(C) Discounts:

Consumer	Net List.
Jobber	List Less 15%.
Dealer	List Less 10%.
Farmers Cooperative Assn. or Farm Bureau	List Less 5%.

(D) Delivery terms:

On minimum carload or over the freight may be absorbed by the seller.

On minimum truckload (the minimum shall be one hundred (100) dozen) the freight may be absorbed by the seller.

Less than minimum carload or truckload shall be sold F.O.B. the seller's plant.

(E) The terms of sale by all members of the industry shall allow not more than two percent (2%) discount for cash within ten days, and payment for invoices not paid within ten days shall be net.

(F) The price list of each member of the industry shall provide that splint baskets shall be quoted by the dozen, till and berry baskets by the thousand (1,000), crates by the hundred (100), solid covers by the hundred (100), slatted covers by the dozen, crate dividers by the piece or hundred (100), hampers by the ———. Climax baskets by the ———.

SCHEDULE D

UNDER SECTION 5, ARTICLE X, CODE OF FAIR COMPETITION FOR THE FRUIT AND VEGETABLE PACKAGE INDUSTRY, CLASSIFICA- TION OF DISTRIBUTIVE AGENCIES

(A) A consumer of fruit and vegetable packages or such other products sold by the fruit and vegetable package industry, is any individual, firm, or corporation that buys for his or its own use, as a receptacle for his own grown or purchased produce.

(B) A dealer in fruit and vegetable packages or such other products sold by the fruit and vegetable package industry is any individual, firm, or corporation that buys to sell and whose business is designed solely for the selling of goods to consumers and for no other use. The definition of consumer is understood to be as given herein.

(C) A jobber of fruit and vegetable packages or such other products sold by the fruit and vegetable package industry is any individual, firm, or corporation that buys to sell and whose business is designed solely for the selling of goods to dealers and for no other use. The definition of dealer is understood to be as given herein.

(D) An organized farm cooperative association or a farm bureau is defined as a group of consumers brought together for the purpose of collective buying. The definition of consumer is understood to be as previously outlined.

SCHEDULE E

UNDER ARTICLE X, DIVISION REGULATIONS, SECTION 6, STATISTICS

(A) Each member of the industry shall mail daily to the private agency selected a report of all orders booked the previous day for future delivery, showing full identification of the product, quantity, and price; also complete details of every sale made as evidenced by a copy of the invoice; also a copy of all credit memos and complete information regarding all pending or subsequent rebates or adjustments in price. The aforesaid agency shall check these records against the list prices as published by the members and the uniform scale of discounts and terms as approved by the Association and in accordance with the various classifications of distributive agencies as approved by the Association.

(B) Each member of the industry shall mail the aforesaid agency, within ten (10) days after the first of each month, a report of the previous month's total sales of each product sold, the total amount of all invoices for each product, the total production of each product, and inventory of the finished stock of each product on hand, and unfilled orders on hand; all in accordance with the various classifications of products as approved by the Association and on standard forms as are furnished.

(C) Each member shall mail the aforesaid agency within ten (10) days after the first of each month a report of the previous month's ratio of production to production capacity and a report showing costs of production (including hours of labor, number of employees, rates of pay) in detail on standard forms furnished for the purpose in accordance with the uniform methods as approved by the Association.

(D) Each member of the industry shall furnish the aforesaid agency and the Coordinator of the Association, within ten (10) days after Governmental approval of the code, a copy of his current price list and catalog showing a complete description and price of every product manufactured for sale and the date of their effectiveness. No member of the industry shall publish and/or distribute to the trade any price list other than of the type and method of pricing than is approved by the Association, and until after seven (7) days notice, accompanied by exhibits, to the Coordinator and the aforesaid agency.

(E) The aforesaid agency shall check the daily reports of sales of each member against his published list price as furnished the aforesaid agency and the Coordinator and against the classifications of distributive agencies, scale of discounts, and terms as approved by the Association.

(F) The aforesaid agency shall chart and tabulate the monthly records of production, ratio of production to production capacity, costs, and records as covered in paragraph B and/or C of this schedule and such other statistics as may be advantageously used in the elimination of waste in production and distribution, and mail monthly to the administrative officer of the Association a compilation of such figures, omitting in every instance the identity of the various members contributing the data.

(G) The identity of the contributor of any and all data as represented by copies of invoices, credit memoranda, or any other figures reported as provided in paragraphs A, B, and C of this schedule shall be held by the aforesaid agency as confidential and shall not be revealed to any other member or used by the aforesaid agency for any other purpose than that outlined in paragraphs E and/or F of this Article, except in such individual instances as the reports give evidence of violation of the regulations and/or trade practices, and then only if it be necessary to the enforcement of the adherence to the regulations, ethics, and/or codes, or the treatment of violations, except that this data shall be available to the President or his agents to effectuate the purposes of the National Industrial Recovery Act.

SEC. 6. *Statistics.*—(A) To provide the knowledge necessary for the intelligent, economical, and profitable operation of business, an accurate basis for control of production, the data necessary for the administering and enforcement of the provisions of this code and the data necessary to adequately advise the President of the extent of observance of the provisions of this code and of the extent to which the declared policy of the National Industrial Recovery Act as stated herein is being effectuated, each member of the industry shall make such reports as shown in Schedule E attached hereto and specifically made a part hereof.

(B) Except as otherwise provided in the National Industrial Recovery Act, all statistical data filed in accordance with Schedule E shall be confidential and the data of one employer shall not be revealed to any other employer except for the purpose of enforcing the provisions of this code.

(C) To provide that the confidential data of one employer shall not be revealed to any other employer, all reports and statistics shall be collected, compiled, and disseminated by a disinterested private agency separate from the Association or its offices, such as a firm of certified public accountants whose ethics regarding the revealing of confidential information are the strictest and are backed by precedence.

SEC. 7. *Enforcement and Treatment of Code.*—(A) This code, on its effective date shall constitute the standards by which each member of the industry shall conduct his business.

(B) In the event of violation of any regulation or trade practice rule or any part of the code, a report shall be sent to the Coordinator by any interested party. The Coordinator shall immediately advise the Administrative Officer of the division in which the violation occurred: who shall immediately institute an investigation and report his findings to the Executive Committee of his division.

(C) In the event the original complaint or any other violation be substantiated, the Division Executive Committee, if it be a divisional matter, or the Executive Committee of the Emergency National Committee if it be a matter between Divisions, shall proceed in accordance with the provisions set forth in paragraph G of this Section 7.

(D) In the event that any of the daily or monthly reports, as provided in Schedule E, of any employer of the industry indicate to the agency (provided for in Section 6) violations of this code, the aforesaid agency shall request a certification of that report. The employer shall respond to said request within three (3) days after receipt of such request. Should the certified report substantiate a violation, the aforesaid agency shall immediately notify the Coordinator who will proceed in accordance with paragraph B of this Section.

(E) The information required to be furnished the Association through the aforesaid agency in the form of daily reports and monthly reports for checking compilation and distribution by the Association must be authentic and accepted as such by the members of the industry. To attain the highest degree of accuracy the Association may assume that the member or members who are the original source of information has furnished a true, full, and accurate disclosure of every fact essential to a complete understanding of the matter which the information purports to have covered. Owing to the relations of mutual confidence and trust involved herein, the peculiar circumstances connected with the subject matter hereof and the importance to all persons connected herewith that information be correct each member agrees that in the event any part of the information which the member shall hereafter transmit to the Association for checking purposes and for distribution as herein outlined shall be erroneous, the member shall pay to its Division a sum of not less than fifty dollars (\$50.00) and not greater than five hundred dollars (\$500.00) in each instance. This provision shall likewise apply to every intentional omission by the member to furnish the required information in Schedule E. Such sum as shall be paid is hereby agreed to equal the damages actually caused by such erroneous information or the withholding of information and such damages are now liquidated at that amount and shall in no sense be deemed a penalty.

(F) Any violation of any part of the code and/or trade practice rules shall be deemed to have endangered the economic stability of the industry, its employees and all persons connected with it, damaged the Association and its members and to be against the public interest. Owing to the relations of mutual confidence and trust herein, the peculiar circumstances connected with the industry that the code and/or trade practice rules be adhered to, each member agrees that in the event it violates the said code and/or trade practice rules, he shall pay to its Division, except in case of a violation referred to in paragraph E of this Section, a sum of not less than five hundred dollars

(\$500.00) and not greater than five thousand dollars (\$5,000.00) in each instance. Such sum as shall be paid is hereby agreed to equal the damages actually caused by such violation and such damages as are assessed under paragraph G hereof, are now liquidated at that amount and shall, in no sense, be deemed a penalty.

(G) The sum necessary to liquidate damages mentioned in paragraph E and/or F of this Section and the method and terms of payment thereof shall be fixed by the Division Executive Committee in accordance with paragraph E and/or F of this Section. Upon its decision the Division Executive Committee shall render such decision, in writing, to the Division Administrative Officer who shall, officially and in writing, notify the offending member and call for payment in accordance with the said decision.

(H) Each member of the industry or Division shall be afforded a fair and impartial opportunity to be heard and to produce evidence in its behalf before the Executive Committee or its agent or representative or the Arbitration Board.

(I) No member of the industry shall be deprived of the privilege of appealing the question of any violation or the damage assessed therefor, through the Division Administrative Officer or the Coordinator of the Association, to a board of arbitration, which each member agrees to be bound by and whose decision shall be conclusive on the member. Said board of arbitration shall be made up of one (1) member of the Division or Association to be chosen by the appealing member, one (1) member of the Division or Association to be chosen by the Executive Committee (which member shall not be a member of the Executive Committee or Emergency National Committee) and the Division Administrative Officer if it be a Division matter or the Coordinator of the Association if it be a matter between Divisions. The decision of the board of arbitration shall be rendered in writing to the Division Administrative Officer or Coordinator and he shall immediately forward a written copy of the decision to the appealing member.

(J) The provisions for arbitration set forth in paragraph I herein shall be exclusive and shall bar any proceeding at law or in equity in any court of any jurisdiction by any member of the industry and by the Association or any Division thereof, except that the Association or any Division thereof shall not be barred thereby from proceeding in equity or in any court of competent jurisdiction to compel compliance with code and/or trade practice rules, nor shall any member or the Association or Division thereof be barred from any proceeding at law or equity to compel arbitration hereunder.

(K) The Association or any Division thereof may by its agents, employees, and accountants have access to and may examine from time to time the books, records, papers, and files of each member in order to certify, compare, and procure the information required to be given and the facts required to be divulged by each member of the industry. The Association or any Division thereof may, under such regulations as its Coordinator shall prescribe, subject to the approval of the Association Executive Committee, which each member of the industry agrees to be bound by, cause its agents, employees, and experts from time to time to examine the products, shipments, factories, and warehouses of each member of the industry and its books, records, and papers to ascertain that each member is complying with this agreement. Each member of the industry hereby grants to the Association or any Division thereof such further visitorial powers as shall be reasonable and necessary for the purposes of this code. All reports hereunder shall be confidential and made only to the Coordinator of the Association or agency as provided in Section 7 herein.

ART. XI. *Production*.—Weather conditions, frost, drought, blight, and the degree of success of crops of perishable fruits and vegetables and other uncontrollable factors enter so largely into the determination of the number of packages required as to negative rigid rules for the quantities to be produced. However, as far as is practical the operating time of the labor in any employer's factory or assembly plant shall not exceed two (2) shifts of forty (40) hours a week. However, if in order to provide for the emergency needs of the perishable food growers, additional operating time is necessary, then the number of hours may be increased during the emergency to two (2) shifts of forty-eight (48) hours per week.

ART. XII. *Trade Practice Rules*.—Rule 1: The making or circulating in any manner of false or deceptive statements concerning the financial standing, business methods, policies, or products of a competitor is an unfair method of competition.

Rule 2: Obtaining information from a competitor in relation to his business, product, or relations with the trade by any impersonation or by any false or misleading statement, or misrepresentation, or by any form of espionage, is an unfair method of competition.

Rule 3: The selling of goods below cost with the intent or with the effect of injuring a competitor, and where the effect may tend to create a monopoly or to unreasonably restrain trade, is an unfair method of competition. Cost is defined as including all cost to the time of the delivery to the buyer, and includes material, labor, and overhead, as well as all charges, such as interest, salesmen's commission, depreciation, depletion, and all reserves which may lawfully be set up on the books of the company.

Rule 4: The secret giving or offering to give, directly or indirectly, without other consideration therefor, money or anything of value to agents, employees or representatives of customers or prospective customers, without the knowledge or consent of their employers, as an inducement to cause their employers to purchase or to contract for the purchase of fruit and vegetable package products from the maker of such gift or offer, or his agents, or to influence such employers to refrain from dealing or contracting to deal with competitors is an unfair method of competition.

Rule 5: It is an unfair method of competition for any person engaged in the fruit and vegetable package industry to either directly or indirectly discriminate in price between different purchasers of fruit and vegetable package products where the purpose or effect of such discrimination may tend to create a monopoly or to permit unfair methods of competition, provided that nothing herein contained shall prevent discrimination in price between purchasers of the same classes on account of the differences in the grade, quantity, or quality of fruit and vegetable package products sold, or that makes only due allowance for difference in the cost of selling or different commodities, made in good faith to meet competition, and provided further that nothing herein contained shall prevent persons engaged in the fruit and vegetable package industry from selecting their own customers in bona fide transactions and not in restraint of trade.

Rule 6: Any willful attempt to induce a breach of any existing bona fide contract or any willful attempt to prevent the performance of any contractual duty under any bona fide contract for the sale or purchase of fruit and vegetable packages or an allied product is an unfair method of competition.

Rule 7: The making or branding of fruit and vegetable packages or any allied product or any misrepresentation in connection with the sale of such materials for the purpose or with the effect of misleading or deceiving purchasers with respect to the quantity, quality, grade, substance, origin, is an unfair method of competition.

Rule 8: The payment or allowance of secret rebates, refunds, credits, unearned discounts, whether in the form of money, or gifts or otherwise, the acceptance of securities at more than true market value or otherwise, as a means of effecting or concealing price discrimination, or extending to certain purchasers special services or privileges, including discriminatory allowance for goods of the purchaser or for services, not extended to all purchasers under like terms and conditions, with the intent or with the effect of injuring a competitor, or where the effect may be to substantially lessen competition or tend to create a monopoly or to unreasonably restrain trade, is an unfair method of competition.

Rule 9: Any statement, written or oral, or any act constituting a false disparagement of the measure, substance, strength, and grade or quality of a competitor's goods or deceptive tests or any statement, written or oral, or any act constituting a false statement as to the prices a competitor is quoting is an unfair method of competition.

Rule 10: Where a member of the industry has a contract with a customer for a certain period of time and because of rumors or statements the member feels that he might lose his position of favor with his customer and that he might not be able to do business with the customer after the contract expires, he shall not change the terms of the contract to prejudice himself or the other members of the industry until such time as he has given the other members of the industry an opportunity to advise him as to the true state of affairs, in order that no buyer shall play one member of the industry against the other and thus promote unfair methods of competition.

Rule 11: The making of false reports of capacity, production, sales, orders, or shipments is an unfair method of competition.

Rule 12: Interference with a competitor by enticing employees from his employment is an unfair method of competition.

Rule 13: The shipment or delivery of fruit and vegetable package products which does not reasonably conform to the standard of samples submitted or representations made prior to securing of the order, unless with the consent of the purchaser to a substitution prior to shipment, is an unfair method of competition.

Rule 14: The entering into contracts for fruit and vegetable packages or allied products with purchasers without actual obligations on the part of the purchaser for a specified quantity or quality and/or merely for the purpose of securing to the buyer a special price which in effect discriminates between purchasers, and tends to unreasonably restrain trade, and injure competitors is condemned as an unfair method of competition.

Rule 15: Contracts of sale which permit the buyer to cancel or provide for a reduced price in the event of a market decline and which do not permit the seller to cancel or provide for an enhanced price in the event of a market rise, are lacking in mutuality and are against the public interest, and the use of such contracts is condemned as an unfair method of competition.

Rule 16: The making of allowances for trucking or hauling to any purchaser or to any carrier owned or controlled by a purchaser is an unfair method of competition.

Rule 17: The selling or offering for sale fruit and vegetable package products to jobbers or other distributive agencies who resell or offer for resale fruit and vegetable package products at less than the minimum prices as determined by the Association is an unfair method of competition.

Rule 18: The granting of trade discounts to brokers or other commission salesmen or agents not properly classified as distributive agencies is an unfair method of competition.

Rule 19: The consignment of fruit and vegetable package products or the renting of space in a distributor's warehouse is an unfair method of competition.

Rule 20: The violation of any of the provisions of this code by any employer or of any approved rule issued thereunder is an unfair method of competition.

ART. XIII. *General*.—1. This code or any of its provisions may be canceled or modified and any approved rule issued thereunder shall be declared ineffective by a majority vote taken at a meeting of a majority in person or by proxy of the subscribers hereto called and convened after ten days' notice of the time, place, and purpose thereof mailed to each subscriber hereto by the secretary of the American Veneer Package Association to the extent necessary to conform to any action by the President under section 9 (b) of the National Industrial Recovery Act.

2. The Emergency National Committee of the Veneer Fruit and Vegetable Package Industry and the Coordinator shall from time to time make to each Division established or to be established under the provisions of this code, such recommendations, including amendments of the code, as in their judgment will aid the effective administration of the code, or may be necessary to effectuate within the Veneer Fruit and Vegetable Package Industry or within any Division thereof the purpose of the National Industrial Recovery Act as administered.

3. Amendment to this code may be proposed by any established Division to the Emergency National Committee or may be initiated by it or the Coordinator, and when approved by the President shall be effective.

4. Violation by any producer of the Veneer Fruit and Vegetable Package Industry products of any provisions of this code or of any approved rule issued thereunder, is an unfair method of competition.

5. In order to avoid undue delay in making effective throughout the Veneer Fruit and Vegetable Package Industry this code of fair competition, the following provision is adopted and other provisions of the code in conflict therewith are suspended until such time as the Emergency National Committee shall determine that the purposes of the Article have been accomplished:

a. Each established Division shall submit as promptly as possible to the Emergency National Committee, a complete code in conformity with the general provisions of this code. Such code, if found substantially to promote the purposes of the national code, shall be accepted provisionally by the Emergency National Committee. The Emergency National Committee and the Coordinator shall thereupon proceed as rapidly as practicable to make such adjustments of and coordination between the provisions in respect of hours,



wages, and production of several divisional codes as may be necessary to bring them into conformity with the provisions of the national code by—

1. Consultation and negotiation between the Divisions affected.
2. Their own findings after full consideration of all factors involved.

If any provision of this code is declared invalid or unenforceable, the remaining provisions shall, nevertheless, continue in full force and effect the same as if they had been separately presented for approval and approved by the President.

ART. XIV. *Effective Date.*—This code and amendments thereto shall be in effect beginning ten days after its approval by the President.

